Filed 2/15/19 B.A. v. Superior Court CA4/2

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

B.A.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN BERNARDINO COUNTY,

Respondent;

SAN BERNARDINO COUNTY CHILDREN AND FAMILY SERVICES,

Real Party in Interest.

E071753

(Super.Ct.No. J277593)

OPINION

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Annemarie G. Pace, Judge. Petition denied.

Law Offices of Valerie Ross and Valerie Ross for Petitioner.

No appearance for Respondent.

Michelle D. Blakemore, County Counsel, Svetlana Kauper, Deputy County Counsel, for Real Party in Interest.

I

INTRODUCTION

This is a petition for extraordinary writ challenging the findings and orders of the juvenile court in setting a hearing pursuant to Welfare and Institutions Code section 366.26.[1] (§ 366.26, subd. (l); Cal. Rules of Court, rule 8.452.) Petitioner B.A. (Mother) is the mother of one-year-old A.A., five-year-old I.A.-V. (I.), and seven-year-old Is.A.-V. (Is.).[2] Mother has a history with child protective services due to ongoing domestic violence issues, resulting in the removal of her children from her care. This is Mother's third dependency case. Mother argues that the juvenile court erred in bypassing her reunification services as to A.A. pursuant to section 361.5, subdivision (b)(10). We find that the record supports the court's findings and orders pursuant to section 361.5, subdivision (b)(10), and deny the petition.

II

FACTUAL AND PROCEDURAL BACKGROUND

A.A. came to the attention of the San Bernardino County Children and Family Services (CFS) on August 13, 2018, when a referral was received alleging general

[1] All future statutory references are to the Welfare and Institutions Code unless otherwise stated.

[2] The subject of this writ petition is only A.A. In addition, the alleged father of A.A. (E.D.) is not a party to this appeal.

neglect by Mother and physical abuse by Mother's live-in boyfriend, T.S. Mother has a history with CFS for several years prior to the current dependency.

A. *First Prior Dependency*

On March 11, 2015, A.A.'s half siblings, I. and Is., were removed from Mother's care due to the children suffering "severe emotional damage" and maintained with their father D.V. At the time of detention, Mother was incarcerated in jail for child cruelty and assaulting her sister. The children were removed from Mother's care due to her failure to seek medical attention for Is.'s genital warts, her untreated mental health issues, severe neglect, caretaker absence, and a history of domestic violence in her relationship with D.V. Mother reported that she had been "diagnosed with ADHD, ADD, depression, borderline personality disorder, and anxiety." She also stated that she had been in psychiatric treatment since the age of four and had been on psychotropic medications throughout her childhood, but that she had not been on any medications since she was 18 years old. Mother also suffered from a bipolar disorder and schizophrenia. Mother claimed that her diagnosis had changed, and at the time of the children's removal, she no longer had a definite diagnosis, and no longer took psychotropic medication.

In regard to domestic violence, Mother detailed a long history of violence in her relationship with D.V. fraught with arguments and physical altercations. Mother recalled fighting with D.V. as early as "the beginning of 2011" when D.V. pushed Mother during a fight causing the then-pregnant Mother to miscarry. In 2013, during an investigation of a referral, the social worker discovered "holes in the walls [in the parents' apartment] and

the domestic violence [could] be heard throughout the complex. The fighting occur[ed] at all hours of the day and night."

Mother and D.V. admitted that domestic violence occurred in their relationship. D.V. was arrested in January 2014 for slamming Mother to the ground and choking her. Ultimately, in November 2014, Mother left the relationship because "'it did start to have an effect [on her] kids . . . .'"

Mother had also been a perpetrator of domestic violence and had been arrested for inflicting corporal injury on a spouse in January 2014, battery on a spouse in April 2014, battery on a person in January 2015, and child cruelty in February 2015. The January 2015 arrest occurred at the home of the maternal grandmother when Mother punched her sister in the face causing her sister to sustain a black eye. Mother was ordered to complete a 52-week class in connection with the arrest and conviction. CFS was concerned that "[Mother would] physically fight with other adults in the presence of the children, in which case the children could get physically hurt or become afraid."

On April 16, 2015, the juvenile court found true the amended allegations in A.A.'s half siblings' petitions and declared Is. and I. dependents of the court. The court thereafter formally removed the children from Mother's custody and provided Mother with reunification services. The social worker referred Mother to Unity Home Domestic Violence shelter (Unity Home) upon her release from custody.

At the semiannual six-month review hearing on October 16, 2015, the juvenile court found that Mother had not completed her case plan and terminated Mother's

reunification services. The court also found that D.V. had completed his case plan, issued family law orders granting D.V. legal and physical custody of I. and Is., and dismissed the dependency. Mother was provided with supervised visits once a week.

B. *Second Prior Dependency*

Two years later after the first removal, on April 11, 2017, CFS received another immediate response referral concerning the family. D.V. was arrested for driving under the influence with Is. and I. in the backseat of the vehicle. When stopped by law enforcement, D.V "'looked paranoid and kept saying that the cars driving by were the DEA.'" Eventually, D.V. admitted to smoking methamphetamine on April 10, 2017, and drinking four cans of beer on April 11, 2017. D.V. was arrested and transported to jail. The children were taken into protective custody and placed in a foster home.

When asked about their Mother, I. informed the social worker that he had not seen her for a long time. Is. also could not recall when she last saw Mother. D.V. reported that Mother's whereabouts were unknown, and the social worker was unable to locate Mother.

However, by the jurisdictional/dispositional hearing in May 2017, CFS had located Mother. Mother reported that D.V. had precluded her from visiting the children regularly for a year and a half and that D.V. had threatened her when she complained about the infrequency of the visits. Mother also stated that D.V. had not allowed her any visits since before Christmas 2016. At that time, Mother was diagnosed with post traumatic stress disorder (PTSD) and anxiety disorder. She was not on medication and

had not been on medication for about 10 years. Mother reported that she managed her mental illness by taking good care of herself and being involved with therapy at Unity Home. Mother's therapist stated that Mother had made "'tremendous progress,'" explaining that Mother had engaged in therapy and had been honest about her role as a mother and her mental health. In addition, Mother had completed the 52-week class in connection with her domestic violence arrest and conviction. She also had completed a 90-day stay in a domestic violence shelter program and a parenting program. Furthermore, Mother was participating in cognitive behavioral therapy and dialectical behavioral therapy. The social worker opined that Mother had exhibited "the insight into her own behavior, mistakes, vulnerabilities and thirst for additional understanding of how to be a healthy and protective mother."

Although Mother was making progress, the social worker was still concerned about Mother's mental health issues, the allegations of Mother's history of domestic violence and domestic abuse, and Mother's third pregnancy with A.A. by a man who was controlling. In addition, while Mother was residing in transitional housing, Mother was involved with another man who was very abusive and ultimately went to prison for his acts of violence against Mother. Thereafter, Mother went into the Unity Home program where she had remained getting services and treatment. In assessing the placement with the previously noncustodial parent, the social worker noted that placement with Mother "was ruled out because the mother previously failed to reunite with the children by not completing her case plan while the children were living with [D.V.]" The social worker

was also concerned about Mother's protective capacity, noting: "She [Mother] needs to evidence the behavioral changes that indicate she is prepared to care for the children, stay out of relationships where there is domestic violence and continue to care for her mental health needs." Nonetheless, due to Mother's progress, the social worker was in favor of granting reunification services to Mother despite her prior termination of services.

At the jurisdictional hearing on June 28, 2017, the juvenile court found true the allegations in the second dependency petitions pursuant to section 300, subdivisions (b) (failure to protect), and (j) (abuse of sibling), and declared Is. and I. dependents of the court. The matter was thereafter continued for the dispositional hearing.

At the dispositional hearing on July 27, 2017, both children were removed from D.V.'s custody, and placed with Mother, the previously noncustodial parent, under family maintenance services. D.V. was provided with reunification services and supervised visits.

A semiannual six-month review hearing was held on February 16, 2018 concerning I. and Is. At that time, minors' counsel objected to dismissing the case, and requested that the matter be set for cause due to Mother's failure to complete anger management classes and family counseling, and the children's disclosure of abuse by Mother. Counsel for CFS requested a continuance for Mother's boyfriend to provide his information for a criminal background check. The court granted the request to continue the matter.

On April 2, 2018, the court terminated D.V.'s reunification services, and issued family law orders with legal and physical custody to Mother. The court thereafter terminated jurisdiction and dismissed the matter.

C. *Third and Current Dependency*

Four months later, on August 13, 2018, CFS received a child abuse referral alleging physical abuse and general neglect to Is., I., and A.A. The referral disclosed that Mother's boyfriend, T.S., physically abused his own daughter, A.S. According to A.S.'s mother, the child was returned to her custody after a visit with T.S. with "bruises and scratches on her body." More specifically, A.S. had bruises to her forehead, eye, cheek, right hip, and buttock. She also had scratches to her back, upper left body, thigh, calf, inside left leg, and stomach. A.S.'s injuries occurred at T.S.'s residence which he shared with Mother and her three children, I., Is., and A.A.

Mother and T.S. claimed that five-year-old I. had inflicted the bruises and scratches on A.S. in the course of two to three days during the week A.S. was visiting T.S. Both Mother and T.S. also stated that they were present or nearby when the incidents occurred. Mother's and T.S.'s claims were later refuted by contradictory statements made by Mother and T.S., a medical examination of A.S., and forensic interviews of I. and Is. T.S. stated that it was Mother who was in charge of disciplining the children.

I. reported that on more than one occasion Mother physically abused him, A.A., Is., and A.S. Specifically, he explained that Mother punched them with her knuckles

"'everywhere,'" including the face, forehead, stomach, knees, and lower body, and that Mother hit them and threw "'things'" at A.S. I. also noted that Mother "hit [A.S] with everything she can, so she was tired of hitting [A.S.]." He further stated that Mother "'busted [him]'" and threw him out of a window. In addition, I. reported observing Mother "punching out windows," as well as witnessing domestic violence between Mother and T.S. with Mother and T.S. punching each other, "'fighting every single day'" and saying "'very bad words'" to each other. I. also stated that T.S. "'did the bad things to me,'" and hit him when he was bad.

Is. confirmed I.'s statements and reported that Mother and T.S. hit the children when they were bad. Specifically, Is. witnessed Mother hit her brother "'hard'" with her "'hand or something'" (later identified as a book) on I.'s hand and arm. Is. recalled an incident when I. was sent to the garage after a beating because Mother did not want to hear I. screaming. Is. and A.A. were subjects of the beatings as well. Mother hit both girls on their hands which made Is. feel "sad." Is. also disclosed an incident when Mother hit A.S. "'a lot of times'" on her arms, hands, and legs. Is. expressed sadness when watching A.S. being hit because she was scared that the beating would happen to her. Is. also recalled A.S. being put in the corner "'all day'" until A.S. became "'super, super hungry.'"

Because of the severity and the extent of A.S.'s injuries as well as the disclosures of physical abuse in the home, CFS was concerned that A.A. was placed at a similar risk

of abuse. A.A. and her half siblings were taken into protective custody and placed with the maternal grandparents.

On September 11, 2018, a first amended petition was filed on behalf of A.A. pursuant to section 300, subdivisions (b) (failure to protect), (g) (no provision for support), and (j) (abuse of sibling).

At the detention hearing on September 12, 2018, A.A. was formally detained from parental custody. The court found T.S. was not the biological father of A.A. and declared him a nonparty.

On September 19, 2018, Mother enrolled in a parenting course, an anger management program, and group and individual therapy at Pacific Clinics Family Resource Center (Pacific Clinics). A letter dated October 17, 2018, from Pacific Clinics, indicated that Mother began attending her parenting classes and group therapy services at Pacific Clinics.

Because Mother continued to live an unstable lifestyle that included domestic violence issues and Mother's minimization of the seriousness of A.S.'s injuries demonstrating Mother's inability to protect A.A., CFS recommended to bypass reunification services to Mother pursuant to section 361.5, subdivision (b)(10), based on her prior failure to reunify with A.A.'s half siblings.

The contested jurisdictional/dispositional hearing was held on November 5, 2018. At that time, Mother testified as follows: Mother denied that she engaged in domestic violence with T.S., including punching and fighting with T.S. "every single day." She

also denied punching out windows. However, she acknowledged prior domestic violence with D.V. for which she had completed a domestic violence class. Upon its completion, Mother entered an emergency shelter and a transitional program. Nonetheless, when Mother left the transitional program she moved in with T.S. In September 2018, Mother enrolled in another domestic violence class to "refresh[] [her] memory and also trying to obtain and use as much information as [she] can to better [herself] as a person, as well as a parent." Mother also acknowledged having mental health issues with a current diagnosis of PTSD, which she believed was well managed through weekly therapy and did not interfere with her parenting abilities. She also claimed that the past diagnosis of her mental illness was "speculation."

Regarding disposition, Mother's counsel argued that Mother had made reasonable efforts to treat the reasons for A.A.'s removal, in particular in regard to domestic violence, and therefore, the bypass provision under section 361.5, subdivision (b)(10), did not apply. Minor's counsel and counsel for CFS argued the bypass provision applied because Mother did not address and continued to deny the issue of domestic violence, Mother continued to engage in domestic violence with her new partner T.S., and instead of acknowledging the issue, she blamed her five-year-old son.

Following arguments, the juvenile court found true the allegations in A.A.'s petition. The court also concluded that Mother did not make reasonable efforts to remedy the issues between the first time when the children were removed in 2015 and the re-removal in 2018. The court explained: "And while I understand success is not the

keystone for [section 361.5, subdivision (b)(10)], [Mother] engaged in a new relationship. It's the same issues present, domestic violence, as well as other issues, but the same domestic violence. She's still in a relationship with that person; still calling him her fiancé. At some point there has to be some recognition that these people she is choosing to have relationships with are not appropriate, and she's putting that ahead of the safety of her children. [¶] She [Mother] is nowhere near remediating that problem [domestic violence] which has existed since 2015. [¶] So I do find that the [section 361.5, subdivision (b)(10)] bypass does exist. . . . [¶] I'm specifically making a finding that it is not in the best interest of the children [to offer services]; they need stability." Thereafter, the court denied services to Mother as to all three children. The matter was continued to December 3, 2018, for a further contested jurisdictional/dispositional hearing for D.V., who was then in custody, and would be transported by that date.

On November 14, 2018, the juvenile court issued a "Tentative Findings & Orders re: Reunification Services." In its tentative opinion, the court affirmed the applicability of the bypass provision in A.A.'s case, and reversed its order regarding I. and Is. based on case law indicating the bypass provision does not apply to the same child.

At the further contested jurisdictional/dispositional hearing on December 3, 2018, Mother's counsel argued that Mother should get services for all three children. CFS's counsel argued that the children should be treated individually and that the bypass provision should apply in A.A.'s case. Following argument, the court, acknowledging the ambiguities in section 361.5, subdivision (b)(10), and inviting counsel to appeal the

issue, affirmed the denial of services to Mother in A.A.'s case pursuant to section 361.5, subdivision (b)(10), while granting services to Mother in A.A.'s half siblings' cases. The court noted that it would not grant Mother services in I. and Is.'s case "were it not for the language of [section 361.5, subdivision (b)(10)]." Thereafter, the court declared A.A. a dependent of the court, set a section 366.26 hearing in A.A.'s case and advised Mother of her appellate writ rights.

On December 5, 2018, Mother filed a timely notice of intent to file a writ petition.

III

DISCUSSION

Mother argues that the juvenile court erred in denying her services in A.A.'s case because clear and convincing evidence does not support there was a failure to reunify with A.A.'s half siblings within the meaning of section 361.5, subdivision (b)(10).

A. *Reunification Services Generally*

Generally, the juvenile court is required to provide reunification services to a child and the child's parents when a child is removed from parental custody under the dependency laws. (§ 361.5, subd. (a).) The purpose of providing reunification services is to "eliminate the conditions leading to loss of custody and facilitate reunification of parent and child. This furthers the goal of preservation of family, whenever possible." (*In re Baby Boy H.* (1998) 63 Cal.App.4th 470, 478.) It is also the legislative intent, "that the dependency process proceed with deliberate speed and without undue delay." (*Marlene M. v. Superior Court* (2000) 80 Cal.App.4th 1139, 1151.) "Thus, the statutory

scheme recognizes that there are cases in which the delay attributable to the provision of reunification services would be more detrimental to the minor than discounting the competing goal of family preservation. [Citation.] Specifically, section 361.5, subdivision (b), exempts from reunification services '"those parents who are unlikely to benefit"' [citation] from such services or for whom reunification efforts are likely to be 'fruitless' [citation]." (*Jennifer S. v. Superior Court* (2017) 15 Cal.App.5th 1113, 1120 (*Jennifer S.*).)

When the juvenile court concludes reunification efforts should not be provided, it """"fast-tracks""" the dependent minor to permanency planning so that permanent out-of-home placement can be arranged. (*Jennifer S.*, *supra*, 15 Cal.App.5th at p. 1121.) The statutory sections authorizing denial of reunification services are commonly referred to as "'bypass'" provisions. (*Ibid*.) One exception may be found where "the court ordered termination of reunification services for any siblings or half siblings of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 . . . and that, according to the findings of the court, this parent or guardian has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling or half sibling of that child from that parent or guardian." (§ 361.5, subd. (b)(10).)

Once it has been determined one of the situations enumerated in section 361.5, subdivision (b), applies, """ the general rule favoring reunification is replaced by a

legislative assumption that offering services would be an unwise use of governmental resources. [Citation.]"' [Citation.]" (*In re William B.* (2008) 163 Cal.App.4th 1220, 1227; accord, *In re A.G.* (2012) 207 Cal.App.4th 276, 281.) Thus, if the juvenile court finds a provision of section 361.5, subdivision (b), applies, the court "shall not order reunification for [the] parent . . . unless the court finds, by clear and convincing evidence, that reunification is in the best interest of the child." (§ 361.5, subd. (c)(2).) "The burden is on the parent to . . . show that reunification would serve the best interests of the child." (*William B.*, at p. 1227; accord, *A.G.*, at p. 281.)

B. *Standard of Review*

"We review an order denying reunification services under [section 361.5] for substantial evidence. [Citation.] Under such circumstances, we do not make credibility determinations or reweigh the evidence. [Citation.] Rather, we 'review the entire record in the light most favorable to the trial court's findings to determine if there is substantial evidence in the record to support those findings.' [Citation.] In doing so, we are mindful of the higher standard of proof required in the court below when reunification bypass is ordered." (*Jennifer S.*, *supra*, 15 Cal.App.5th at pp. 1121-1122; see *In re Brian M.* (2000) 82 Cal.App.4th 1398, 1401.) If there is substantial evidence to support the order, the appellate court must uphold the order even if evidence could support a contrary holding. (*In re Megan S.* (2002) 104 Cal.App.4th 247, 251.)

However, questions of law that do not involve resolution of disputed facts are subject to de novo review. (See *Riverside County Dept. of Public Social Services v. Superior Court* (1999) 71 Cal.App.4th 483, 486.) "In construing a statute we must ascertain the legislative intent, so as to effectuate the purpose of the law. [Citation.] We begin by examining the words of the statute. '"[I]f the statutory language is not ambiguous, then we presume the Legislature meant what it said, and the plain meaning of the language governs."' [Citations.] '"Appellate courts may not rewrite unambiguous statutes"' or 'rewrite the clear language of [a] statute to broaden the statute's application.' [Citation.] It is only when the language supports more than one reasonable construction that we consult legislative history, the ostensible objects to be achieved, or other extrinsic aids in order to select the construction that most closely comports with the legislative intent." (*Melissa R. v. Superior Court* (2012) 207 Cal.App.4th 816, 822 [holding the plain language of section 361.5, subdivision (b)(10), does not apply to sibling who had been removed pursuant to the laws of another state, and thereby had not been "removed . . . 'pursuant to Section 361'"]; see *J.A. v. Superior Court* (2013) 214 Cal.App.4th 279 (*J.A.*) [holding plain language of section 361.5, subdivision (b)(10), does not apply for same child to trigger sibling exception to reunification services].)

C. *Analysis*

The relevant exception here is contained in subdivision (b)(10) of section 361.5. Section 361.5, subdivision (b), allows the juvenile court to deny services to a parent under specific circumstances. "To apply section 361.5, subdivision (b)(10), therefore, the

juvenile court must find both that (1) the *parent previously failed to reunify with a sibling* [*or half sibling*] *and* (2) the parent has not subsequently made a reasonable effort to treat the problems that led to removal of the sibling [or half sibling]." (*In re Albert T.* (2006) 144 Cal.App.4th 207, 217, italics added.) Here, Mother does not contest the juvenile court's finding that she failed to make a reasonable effort to treat the problems that led to A.A.'s half siblings' removal. Instead, she contends that the evidence shows she reunified with A.A.'s half siblings and therefore subdivision (b)(10) of section 361.5 does not apply. CFS disagrees.

The language of section 361.5, subdivision (b)(10), is very precise. It requires, for services to be denied under that subsection, a finding "[t]hat the *court ordered termination of reunification services for any siblings or half siblings* of the child because the parent or guardian failed to reunify with the sibling or half sibling after the sibling or half sibling had been removed from that parent or guardian pursuant to Section 361 . . . ." (§ 361.5, subd. (b)(10), italics added.) Contrary to Mother's claim, such an order was issued in this case in the first dependency. In 2015, the juvenile court terminated Mother's reunification services at the six-month review hearing after she failed to reunify with A.A.'s half siblings, and the half siblings were maintained with their father, D.V.

Mother, however, claims that "she had completed her case plan in the subsequent case" and, therefore, the children were "eventually returned to [her]." Presumably, Mother is referring to the second dependency two years later after D.V. was found to be driving with A.A.'s half siblings while intoxicated. In that second dependency, A.A.'s

half siblings were placed in Mother's care on family maintenance. Family maintenance services are not the same as reunification services. (Compare § 16501, subd. (g) [defining "family maintenance services"], with § 16501, subd. (h) [defining "family reunification services"].) Mother never procedurally reunified with A.A.'s half siblings within the meaning of subdivision (b)(10) as she contends, neither in 2015 when her services were terminated, nor in 2017 when the court "placed" the children with her on family maintenance services. The procedural mechanism, which compelled the court to assess Mother for placement in 2017, differed from the reunification mechanism triggered by the parent's reasonable effort to treat the problems that led to the initial removal. Moreover, the fact that A.A.'s half siblings were placed with Mother on family maintenance services two years later in 2017 does not negate the first dependency wherein Mother's reunification services were terminated in the half siblings' case after she failed to reunify with them.

Where statutory language is plain, it cannot be ignored. (*In re B.L.* (2012) 204 Cal.App.4th 1111, 1116; *J.A.*, *supra*, 214 Cal.App.4th at p. 284.) Where, as here, ""'the statutory language is not ambiguous, then we presume the Legislature meant what it said, and the plain meaning of the language governs."'" (*B.L.*, at p. 1116.)

Furthermore, substantial evidence in the record, as laid out above, *supra*, II., shows that Mother had not subsequently made a reasonable effort to treat the problems that led to removal of A.A.'s half siblings. The court *In re Gabriel K.* (2012) 203 Cal.App.4th 188 found "[t]he intent of [section 361.5] subdivision (b)(10) is to allow

juvenile courts to deny reunification services if a parent has already failed at attempted reunification. In these circumstances, providing additional reunification services may be fruitless." (*Id*. at p. 195.) The court relied on this intent to construe section 361.5, subdivision (b)(10), to apply to a subsequent petition involving the same child, explaining that "[a] statute should not be given a literal meaning if to do so would create unintended, absurd consequences. Instead, 'intent prevails over the letter of the law and the letter will be read in accordance with the spirit of the enactment.'" (*Id*. at p. 196.)

"The reasonable effort requirement focuses on the extent of a parent's efforts, not whether he or she has attained 'a certain level of progress.' [Citation.]." (*R.T. v. Superior Court* (2012) 202 Cal.App.4th 908, 914 (*R.T.*).) However, "reasonable effort" as used in subdivision (b)(10) of section 361.5 is "not synonymous with '"cure."'" (*Jennifer S., supra*, 15 Cal.App.5th at p. 1121.) The parents' efforts "must, however, be more than '"lackadaisical or half-hearted."' [Citation.]." (*Ibid*.)

While the "reasonable effort" standard does not require a complete cure of the problems that led to the failed reunification of a sibling or half sibling, it similarly does not mean "that *any* effort by a parent, even if clearly genuine, to address the problems leading to removal will constitute a reasonable effort and as such render these provisions inapplicable. It is certainly appropriate for the juvenile court to consider the *duration, extent and context* of the parent's efforts, as well as any other factors relating to the quality and quantity of those efforts, when evaluating the effort for reasonableness. And while the degree of progress is not the *focus* of the inquiry, a parent's progress, or lack of

progress, both in the short and long term, may be considered to the extent it bears on the *reasonableness* of the effort made." (*R.T., supra,* 202 Cal.App.4th at p. 914; accord *Jennifer S., supra,* 15 Cal.App.5th at p. 1121.)

In this case, the issue of whether Mother's participation constituted "reasonable effort" within the meaning of section 361.5, subdivision (b)(10), remained highly questionable with the inception of the third dependency, merely four months after the second dependency was dismissed. It is evident from the record that Mother's effort, when considering the duration, extent, and context in the long term, was not reasonable. Mother failed to treat the problems, namely her domestic violence issues, that led to removal of A.A.'s half siblings. Mother's issue with domestic violence resurfaced time and time again throughout the pendency of the three dependency cases and continued to the point where she was physically abusing the children.

Based on the foregoing, we conclude the juvenile court properly bypassed Mother's reunification services in A.A.'s case pursuant to section 361.5, subdivision (b)(10).

IV

DISPOSITION

The writ petition is denied. The immediate stay requested by petitioner is also denied.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

CODRINGTON
J.

We concur:

MILLER
Acting P. J.

FIELDS
J.